

REMARKS

I. Status of Claims

Claims 20-22 are pending in the application. Claims 20-22 are newly added and independent. Without waiving any argument, and to facilitate prosecution, claims 1-19 are canceled without prejudice to and/or disclaimer of the subject matter therein.

Claims 1-19 stand rejected under 35 USC 102(b) as allegedly being anticipated by Mikami et al. (USP 6,549,840) (hereinafter “Mikami”).

The Applicant respectfully requests reconsideration of this rejection in view of the following remarks and the foregoing amendments.

II. Pending Claims

Canceled claims 1-19 were rejected under 35 USC 102(b) as allegedly being anticipated by Mikami. As stated above, claims 20-22 are now pending.

Certain embodiments of the present invention are directed to a power output apparatus that outputs power to a drive shaft. Certain power output apparatuses of the present invention include the following: an internal combustion engine; a three-shaft power input-output assembly that is connected with three shafts (that is, an output shaft of said internal combustion engine, said drive shaft, and a third shaft, and specifies input and output of power from and to one residual shaft among said three shafts, based on powers input and output from and to two shafts among said three shafts); a generator that inputs and outputs power from and to the third shaft, a motor that is capable of inputting and outputting power from and to the drive shaft; an accumulator that is capable of supplying and receiving electric power to and from the generator and the motor; an input-output restriction setting module that sets an input restriction and an output restriction of the accumulator using watts as its unit; a torque demand setting module; a target value setting module; upper and lower limit variation setting modules; a target rotation speed correction module; a generator torque command setting module; a motor torque command setting module; and a control module that controls the generator, the motor and the internal combustion engine so that the generator is driven with a torque command set by the generator torque command setting module, the motor is driven with a torque command set by the motor torque command setting module and the internal combustion engine is driven with a driving point consisting of the target rotation speed and the target torque set by said target value setting

module.

That being said, the Applicant respectfully submits that claims 20 and 21 are patentable over the cited reference **at least** because they recite, "...an input-output restriction setting module that sets an input restriction and an output restriction of said accumulator **using watts as its unit**...", "...a target value setting module that sets a target rotation speed and a target torque of said internal combustion engine by applying **a sum of a power demand required for outputting set torque demand to said drive shaft, a charge-discharge power demand required for charging and discharging of said accumulator and a loss to a driving line as an operating restriction of said internal combustion engine set in advance to efficiently operate said internal combustion engine**...", "...an upper and lower limits of torque setting module that sets an upper and lower limits of torque based on that **the sum of the product of a rotation speed of said generator and the upper and lower limits of torque output from said generator, a motor electric power demand to be input to and output from said motor, and auxiliary machinery electric power to be supplied from said accumulator to auxiliary machinery and a loss of the apparatus is equal to set input-output restriction**..." Similarly, claim 22 is patentable over the cited references at least because it recites, "...**(a) setting an input restriction and an output restriction of said accumulator using watts as its unit**...", **(c) setting a target rotation speed and a target torque of said internal combustion engine by applying a sum of a power demand required for outputting set torque demand to said drive shaft, a charge-discharge power demand required for charging and discharging of said accumulator and a loss to a driving line as an operating restriction of said internal combustion engine set in advance to efficiently operate said internal combustion engine**..." and **"...(d) setting an upper and lower limits of torque based on that the sum of the product of a rotation speed of said generator and the upper and lower limits of torque output from said generator, a motor electric power demand to be input to and output from said motor, an auxiliary machinery electric power to be supplied from said accumulator to auxiliary machinery and a loss of the apparatus is equal to set input-output restriction**..." (emphasis added)

In order to reject the Applicant's previously filed claims, the Office Action (on pages 2-3) recites that:

As per claim 1-10, Mikami discloses the invention as

claimed which includes an internal combustion engine (see figure 1, item 14), an electric power mechanical power input-output unit, a motor, an accumulator (see at least figure 3), and a controller includes an input-output restriction setting module, a drivable range setting module, a power demand setting module, and a driving control module as shown in at least columns 23-29 and 43-44, figures 1, 3, 7 and the related text...As per claims 11-19, the limitations of these claims have been noted in the rejection above. They are considered rejected as set forth above.

The Applicant respectfully submits that neither the above-identified portions (i.e., cols. 23-29 and 43-44 and/or figures 1, 3, and 7 of Mikami) nor any other portion(s) of Mikami disclose each and every limitation of the inventions of claims 20-22. For example, col. 44, lines 49-67, describe calculating a maximum drive torque on the basis of temperature, but not in the manner as claimed by Applicant in the inventions of claims 20-22. Therefore, it is respectfully submitted that Mikami does not anticipate the Applicant's claims.

Further, the Applicant respectfully submits that it would not have been obvious to modify Mikami in the manner as claimed by the Applicant. The Applicant respectfully submits that, as discussed in *KSR Int'l Co. v. Teleflex, et al.*, No. 04-1350, (U.S. Apr. 30, 2007), it remains necessary to identify the reason why a person of ordinary skill in the art would have been prompted to combine alleged prior art elements in the manner as claimed by the Applicant in the inventions of claims 20-22. Accordingly, claims 20-22 are not rendered obvious by Mikano in view of any of the other cited references under §103.

Therefore, for at least these reasons, the Applicant respectfully submits that claims 20-22, as well as their dependent claims, are patentable over the cited references.

III. Conclusion

In light of the above discussion, the Applicant respectfully submits that the present application is in all aspects in allowable condition, and earnestly solicits favorable reconsideration and early issuance of a Notice of Allowance.

The Examiner is invited to contact the undersigned at (202) 220-4420 to discuss any matter concerning this application. The Office is authorized to charge any fees related to this communication to Deposit Account No. 11-0600.

Respectfully submitted,

Dated: December 19, 2008

By: /Daniel G. Shanley/
Daniel G. Shanley
(Reg. No. 54,863)

KENYON & KENYON LLP
1500 K Street, N.W. – Suite 700
Washington, D.C. 20005-1257
Tel: (202) 220-4200
Fax: (202) 220-4201